

FILED '11 JAN 19 11:50 USDC-ORN

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

TYRONE BLOCKER,

Plaintiff,

Civil No. 10-1411-CL

v.

REPORT AND
RECOMMENDATION

J. PREMO, SUPERINTENDENT,

Defendant.

CLARKE, Magistrate Judge.

Petitioner filed a Complaint under 42 U.S.C. § 1983, but did not pay the filing fee or file an application to proceed in forma pauperis.

By Order (#3) entered November 17, 2010, plaintiff was advised of the filing fee requirement and allowed 30 days to either pay the filing fee or to file an application to proceed in forma pauperis, and advised that failure to do one or the other would result in the dismissal of this proceeding for failure to prosecute. Petitioner was provided with a form to apply for in forma pauperis status.

Plaintiff was further advised that the complaint before

the court failed to state a claim and was subject to dismissal without service upon the defendant.

Plaintiff has not paid the filing fee, requested to proceed in forma pauperis, or requested an extension of time in which to do so.

This proceeding should be dismissed pursuant to the court's Order (#3) for failure to prosecute.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 18 day of January, 2011.



Mark D. Clark
United State Magistrate Judge